3

The Library Company of Philadelphia	Common Pleas, No. 2.
vs.	January Term, 1877.
William J. Donohugh.	No. 737.

SPECIAL INJUNCTION AFFIDAVIT.

Lloyd P. Smith, being duly affirmed, says:—I am now and for the last twenty-six years have been librarian of The Library Company of Philadelphia.

By deed dated the first day of July, 1731, the said Library Company, then an association, was founded at Philadelphia, by Benjamin Franklin, James Logan and others as an institution for the advancement of learning and the more useful dissemination of knowledge, and the first meeting of the directors thereof was held on the eighth day of November, 1731.

The books composing the library were originally placed on the shelves "of Robert Grace's chamber, at his house in Jones' alley," and the librarian was, by the rules, required to permit "any civil gentleman to peruse the books of the library in the library-room."

On the twenty-fifth day of March, A. D. 1742, John, Thomas and Richard Penn, proprietaries of Pennsylvania, by letters patent, reciting that Benjamin Franklin, and others therein named, had, "at a great expense, purchased a large and valuable collection of useful books, in order to erect a library for the advancement of knowledge and

literature in the city of Philadelphia," and "being truly sensible of the advantage that may accrue to the people of this Province by so useful an undertaking and being willing to encourage the same," incorporated "The Library Company of Philadelphia," aforesaid.

In addition to the original foundation of the said company, it is the trustee, under the will of James Logan, of certain real estate, and of a collection of books known as the Loganian Library. This real estate and collection of books were, by indenture dated the 25th of March, 1760, conveyed by the executors of James Logan to William Allen and others, in trust, for certain purposes therein set forth. An addition to the said collection of books was subsequently made by the will of William Logan; and, by an act of the legislature, approved the thirty-first day of March, 1792, reciting that James Logan—the only surviving trustee of the said institution—had requested the legislature that, pursuant to an agreement between himself and the directors of the Library Company of Philadelphia, the real estate and collection of books might be vested in the Library Company aforesaid: and, that power might be given to make such provisions as might most effectually tend to render the said institution beneficial to the public, consistently with the design of the founder, it was enacted that the said real estate and books should be vested in the Library Company of Philadelphia aforesaid, its successors and assigns, forever, in trust, for the support and increase of the said Loganian Library. This collection of books, of which the complainants are thus the trustee, now exceeds ten thousand volumes, and is one of the most valuable of the kind in the United States. Since the year 1793, the books have always been kept in the same building as those of the Library Company, and under the care of the same librarian. Books may be taken out of the Loganian Library without charge by any person who

leaves a deposit of double their value as security. The library is absolutely free.

Additions have also been made to the library by its association, in 1769, with the Union Library Company of Philadelphia, under an act of the legislature, approved on the thirteenth day of March of that year; in 1771, with the Associated Library Company and the Amicable Company; by a bequest, in the year 1804, by John Bleakley and the Rev. Samuel Preston; by the bequest, in the year 1827, of the Mackenzie Library; and by numerous other gifts and bequests of books from time to time, none of them very large, but together forming a valuable collection which for nearly one hundred and fifty years has been freely open to the citizens of Philadelphia.

The number of books thus belonging to the Library Company now exceeds one hundred thousand volumes.

The corporation is composed of members and is maintained by their annual contributions, and from the income derived from such property as has been given to it, and from fees paid for the use of the books from persons not members.

All the profits and income of the corporation, after defraying the necessary expenses of maintenance, are applied to the purchase of books. The institution is managed by twelve directors, annually chosen by the members, who receive no compensation for their services, and the use of the books is given—

1. Without charge or compensation to all persons using them within the library building;

2. To all members, with certain usual limitations as to the number of volumes that may at any time be taken for use without the building;

3. To all persons, for a small compensation, who wish to use the books without the building, and give security for their return.

The original purpose for which the corporation was created was the collection and use of books by the members at their homes, as a circulating library. It was the first of that kind in this country, and has ever since preserved its character. The profits arising from subscriptions and other sources are devoted exclusively to the expense of the library and to its increase, and are not employed for the pecuniary use or benefit of the members.

Soon after the passage of the act of February 3d, 1824, by which real estate was made subject to a lien for taxes, the legislature by an act of the General Assembly, approved March 3d, 1826, provided that "From and after the passing of this act the building, and lot of ground situate on South Fifth street, in the city of Philadelphia, whereon the same is erected, and wherein the books belonging to The Library Company of Philadelphia and the Loganian Library are deposited, together with the books and other property of the said institution kept therein, shall be and hereby are exempted from taxation for the term of seven years." This exemption was subsequently made perpetual, and from that time down to the present the complainant has never been taxed for any purpose whatever, and has been specially exempted therefrom by the Board of Revision of Taxes for the County of Philadelphia. The following is a copy of the said exemption, as appearing on the books of said board:—

"Fifth street, east side, N. E. corner Library.
"Philadelphia Library Company.
"2-story building, 74 x 88. $60,000.
"**EXEMPT**."

Accompanying this affidavit is a copy of the memorial of the Library Company presented to the said Board of Revision.

The defendant is the collector of delinquent taxes for the city, and I am informed and believe is about to proceed against the Library Company as a delinquent tax-payer as to this particular property, for the payment of taxes from which it is and always has been exempt.

LLOYD P. SMITH.

Lloyd P. Smith, being duly affirmed, says, that the facts here set forth are true, to the best of his knowledge, information and belief.

Affirmed before me, this 21st day of November, A. D. 1877.

[SEAL] J. H. WHEELER,
Notary Public.